

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the Commission's own motion to determine the impact on public benefits associated with the expiration of ratepayer charges pursuant to Public Utilities Code Section 399.8.

Rulemaking 11-10-003
(Filed October 6, 2011)

**DECISION GRANTING COMPENSATION TO
THE UTILITY REFORM NETWORK**

Claimant: The Utility Reform Network (TURN)	For contribution to Decisions (D.) 11-12-035 and 12-05-037
Claimed (\$): \$18,219.53¹	Awarded (\$): \$20,145.78
Assigned Commissioner: Michael R. Peevey	Assigned ALJs: David Gamson, Julie Fitch

PART I: PROCEDURAL ISSUES

A. Brief Description of Decision: D.11-12-035 institutes a new surcharge, known as the Electric Program Investment Charge (EPIC), to fund renewables and Research, Development & Demonstration programs. The Decision establishes interim funding levels, subject to refund, and customer cost allocation for the EPIC at the same levels as for the current public goods charge, after subtracting the energy efficiency component.

D.12-05-037 establishes a framework for Commission oversight of the EPIC established by D.11-12-035 in Phase 1 of this proceeding. The funding is to provide public interest investments in applied research and development, technology demonstration and deployment, market support, and market facilitation, of clean energy technologies and approaches for the benefit of electricity ratepayers of Pacific Gas and Electric Company (PG&E),

¹ TURN has made a computational error in calculating their intervenor compensation request. Their total request adds up to \$20,244.53 not \$18,219.53.

San Diego Gas & Electric Company (SDG&E), and Southern California Edison (SCE). The decision establishes electricity ratepayer benefits as a mandatory guiding principle, adopts several other related and complementary principles designed to guide investment decisions and determines that EPIC funds will be administered 80% by the California Energy Commission (CEC) and 20% by the three investor owned utilities (IOUs) under the oversight and control of the Commission.

B. Claimant must satisfy intervenor compensation requirements set forth in Pub. Util. Code §§ 1801-1812:

	Claimant	CPUC Verified
Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):		
1. Date of Prehearing Conference:	October 27, 2011	Correct
2. Other Specified Date for NOI:		
3. Date NOI Filed:	November 14, 2011	Correct
4. Was the NOI timely filed?		Yes
Showing of customer or customer-related status (§ 1802(b)):		
5. Based on Administrative Law Judge (ALJ) ruling issued in proceeding number:	See Comment #1	R.11-11-008
6. Date of ALJ ruling:	See Comment #1	January 3, 2012
7. Based on another CPUC determination (specify):	See Comment #1	N/A
8. Has the Claimant demonstrated customer or customer-related status?		Yes
Showing of “significant financial hardship” (§ 1802(g)):		
9. Based on ALJ ruling issued in proceeding number:	See Comment #1	R.11-11-008
10. Date of ALJ ruling:	See Comment #1	January 3, 2012
11. Based on another CPUC determination (specify):	See Comment #1	N/A
12. Has the Claimant demonstrated significant financial hardship?		Yes

Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision:	D.12-05-037	Correct
14. Date of Issuance of Final Order or Decision:	May 31, 2012	Correct
15. File date of compensation request:	July 30, 2012	Correct
16. Was the request for compensation timely?		Yes

C. Additional Comments on Part I (use line reference # as appropriate):

#	Claimant	CPUC	Comment
1		Correct	Although TURN filed a timely NOI in this proceeding, neither of the assigned ALJs have yet issued a ruling on the notice of intent. TURN's showing on financial hardship and customer status was contained in that NOI. TURN has previously been found to satisfy these two standards -- for example see ALJ ruling on January 3, 2012 in R.11-11-008.

PART II: SUBSTANTIAL CONTRIBUTION**A. Claimant's contribution to the final decision**

Contribution	Specific References to Claimant's Presentations and to Decision	Showing Accepted by CPUC
1. PHASE 1 / SUPPORT FOR EPIC FUNDING AT EXISTING PGC FUNDING LEVELS THROUGH 2012 TURN recommended that the Commission continue funding renewables and research, development and demonstration (RD&D) programs at existing Public Goods Charge (PGC) levels on a temporary basis through the end of 2012. Specifically, TURN recommended that "funding be continued through December 31, 2012 with an opportunity to extend the duration further if the Legislature fails to enact new statutory authorization or a funding source for	<u>D.11-12-035</u> The Decision authorizes an EPIC surcharge "at a level to collect approximately the same amount of money as the expiring PGC for renewables and RD&D programs on an interim basis" (at 32). The Decision accepts TURN's proposal and clarifies that "as suggested by DRA and TURN, this charge should remain in place only for a limited time, until a final Phase 2 decision is issued. Therefore, the interim EPIC will expire on January 1, 2013 if the Commission has not acted to continue or modify it." (at 33)	Yes

<p>these programs. The Commission should re-evaluate the need for additional funding after the end of the 2012 Legislative session.” (at 4).</p> <p><u>Opening comments of TURN on the OIR, October 20, 2011, at 1, 3-4.</u></p>		
<p>2. PHASE 1 / PROTECTING EPIC FUNDS FROM BEING MISUSED</p> <p>TURN highlighted the fact that the Legislature has repeatedly borrowed to taken funds from the existing PGC programs administered by the CEC. TURN urged the Commission to take steps to limit the transfer of EPIC funds to state trust funds in order to prevent the funds from being used for other purposes, or from being raided by the Legislature. TURN also urged that EPIC funds be collected in a balancing account in order to allow for a return of unused EPIC funds to ratepayers.</p> <p><u>Opening comments of TURN on the OIR, October 20, 2011, at 2-3.</u></p> <p><u>Reply comments of TURN on the OIR, October 25, 2011, at 3.</u></p>	<p><u>D.11-12-035</u></p> <p>The Decision requires that funds collected by the IOUs should be held in balancing accounts subject to refund (at 11, 27, Ordering Paragraph 4) and clarifies that no funds will be transferred to the CEC at this time (at 34).</p>	<p>Yes</p>
<p>3. PHASE 2 / CEC ADMINISTRATION OF EPIC SUBJECT TO PROTECTIONS AGAINST DIVERSION OF RATEPAYER FUNDS</p> <p>TURN supported the staff proposal to use the CEC as the EPIC program administrator subject to CPUC oversight.</p> <p>TURN expressed serious concerns about the fact that the Legislature borrowed \$101.5 million from the Renewable Resources Trust Fund (collected via the PGC) that may never be recovered. To prevent future raids, TURN urged that any</p>	<p><u>D.12-05-037</u></p> <p>The Decision concludes that the CEC should serve as the primary administrator of EPIC funds subject to CPUC oversight (Finding of Fact 8).</p> <p>The Decision agrees with TURN’s concerns regarding the potential for diversion of EPIC funds in the event that excessive money is placed into state trust funds controlled by the Legislature. In response to concerns raised by TURN, the staff proposal offered two options “with the objective of protecting the funds, as much as possible, from potential diversion to other purposes</p>	<p>Yes</p>

<p>EPIC funds authorized for collection in rates should be retained by the IOUs until needed to pay for program awards made by the Energy Commission. TURN further suggested that funds associated with administrative and overhead costs be transferred quarterly to the CEC.</p> <p><u>Opening comments of TURN on the OIR, October 20, 2011, at 2-3.</u></p> <p><u>Reply comments of TURN on the OIR, October 25, 2011, at 3.</u></p> <p><u>TURN opening comments on staff proposal, March 7, 2012, at 1.</u></p> <p><u>TURN reply comments on staff proposal, March 16, 2012, at 8-9.</u></p> <p><u>TURN opening comments on Fitch PD, May 14, 2012, at 1.</u></p>	<p>unrelated to EPIC by the state budget process.” (at 68) The Decision adopts a hybrid approach that transfers funds to the CEC for administrative and staffing costs on a quarterly basis (at 69) while prohibiting the transfer of funds for grants or contracts with third parties until such agreements are finalized and executed. (at 70)</p>	
<p>4. PHASE 2 / ROLE OF IOU RD&D PROGRAMS</p> <p>TURN urged the CPUC to adopt a general policy disfavoring any utility administration of RD&D programs in favor of administration by a state agency. To the extent that IOUs are permitted to administer funds, TURN urged that IOUs not be allowed to submit stand-alone applications outside of EPIC and proposed that all such proposals be considered within EPIC in order to rationalize RD&D spending and ensure that individual proposals are compared to alternative uses for the funds. To the extent that IOU programs are allowed, TURN supported a prohibition on using EPIC funds for pre-commercial deployment of utility-owned generation but urged against a broader prohibition on “generation-only” projects.</p> <p><u>Opening comments of TURN on the</u></p>	<p><u>D.12-05-037</u></p> <p>While the Decision does not agree with TURN’s primary recommendation to prohibit utility administered RD&D programs funded by EPIC, it does embrace TURN’s alternative proposal by directing IOUs not to propose new RD&D spending in their General Rate Cases and establishing a presumption against new stand-alone IOU RD&D applications. The Decision explains that “this approach will ensure a better process for RD&D investments, as described by TURN, that allows for consideration of trade-offs among investments in a comprehensive manner by the Commission.” (at 29) The Decision further establishes the exception that IOUs may propose RD&D spending on electric generating projects on a stand-alone basis outside of EPIC consistent with TURN’s position. (at 41-42)</p>	<p>Yes</p>

<p><u>OIR, October 20, 2011, at 14-15.</u></p> <p><u>Reply comments of TURN on the OIR, October 25, 2011, at 1.</u></p> <p><u>TURN opening comments on staff proposal, March 7, 2012, at 2-3.</u></p> <p><u>TURN opening comments on Fitch PD, May 14, 2012, at 4-5.</u></p>		
<p>5. PHASE 2 / BIOENERGY AND BIOMASS ISSUES</p> <p>TURN urged the Commission to terminate subsidies for existing biomass facilities in favor of providing sufficient revenues through procurement under long-term PPAs with the IOUs. TURN also endorsed the 20% set-aside of technology demonstration and deployment funding for new bioenergy projects.</p> <p><u>Reply comments of TURN on the OIR, October 25, 2011, at 6-7.</u></p> <p><u>TURN reply comments on staff proposal, March 16, 2012, at 2-3.</u></p> <p><u>TURN opening comments on staff proposal, March 7, 2012, at 1.</u></p>	<p><u>D.12-05-037</u></p> <p>The Decision agrees with TURN and other parties that EPIC funds should not be used to provide ongoing subsidies for existing, operating biomass facilities. The Decision finds that these facilities should receive support through contracts with IOUs and other sources outside of EPIC. (at 53-54)</p> <p>The Decision sets aside 20% of technology demonstration and deployment funds during the first investment plan to fund bioenergy projects and explicitly references TURN's support for the proposal. (at 45—46)</p>	<p>Yes</p>
<p>6. PHASE 2 / CONSOLIDATION OF EMERGING RENEWABLES PROGRAMS AND SELF-GENERATION INCENTIVE PROGRAM</p> <p>TURN urged the Commission to allow technologies currently eligible under the CEC's Emerging Renewables Program to participate in the Self-Generation Incentive Program as a method of ensuring that these technologies remain eligible for subsidies. TURN responded to concerns about consolidation of these programs by pointing out that there may be sufficient available funds in</p>	<p><u>D.12-05-037</u></p> <p>The Decision agrees with TURN and adopts the staff proposal for consolidating the technologies funded by the Emerging Renewables Program into the Self-Generation Incentive Program. (pages 50-51) The Decision notes that "we agree with TURN that the SGIP budget situation may not be as insufficient as some parties suggest." (at 51)</p>	<p>Yes</p>

<p>the SGIP to support the addition of these technologies.</p> <p><u>Opening comments of TURN on the OIR, October 20, 2011, at 10-11.</u></p> <p><u>Reply comments of TURN on the OIR, October 25, 2011, at 2-3.</u></p> <p><u>TURN reply comments on staff proposal, March 16, 2012, at 6-7.</u></p>		
<p>7. PHASE 2 / ADMINISTRATIVE COSTS</p> <p>TURN opposed the 15% administrative cost cap contained in the staff proposal on the basis that other utility-administered programs typically have a 10% administrative cost cap. TURN also identified concerns about potentially excessive overhead costs when there is a daisy-chain of recipients for an individual grant, each of which may deduct administrative costs.</p> <p><u>TURN reply comments on staff proposal, March 16, 2012, at 7-8.</u></p>	<p><u>D.12-05-037</u></p> <p>The Decision agrees with TURN that there is no basis for departing from the general practice of a 10% administrative cost cap for other programs. (at 66-67)</p> <p>The Decision also adopts a comprehensive definition of administrative costs and stressed the importance of minimizing “administrative costs for overseeing the EPIC funds to ensure that the greatest possible amount of funding can be used to support the policy purposes identified herein.” (at 66)</p>	Yes
<p>8. PHASE 2 / PROHIBITION ON SPENDING EPIC FUNDS FOR POU ACTIVITIES</p> <p>TURN expressed concerns about customers of Publicly Owned Utilities (POUs) accessing EPIC funds that are collected exclusively from IOU ratepayers. TURN endorsed the staff report’s proposal to prohibit EPIC funds from being used to support CEC staff work on implementing the Renewables Portfolio Standard Program requirements applicable to POUs.</p> <p><u>Opening comments of TURN on the OIR, October 20, 2011, at 12.</u></p> <p><u>TURN opening comments on staff</u></p>	<p><u>D.12-05-037</u></p> <p>Although the Decision does not establish “explicit limits on geographic eligibility” under EPIC, it establishes “delivering IOU electricity ratepayer benefits as the most important guiding principle” and clarifies that this goal “should be taken into consideration by the administrators when awarding funding to individual projects proposed.” (at 73) The Decision further finds that “considering the source of EPIC funds and consistent with the key guiding principle of producing IOU electricity ratepayer benefits, funds administered by the CEC may not be used for any purposes associated with POU activities, including POU RPS</p>	Yes

<u>proposal, March 7, 2012, at 4-5.</u> <u>TURN opening comments on Fitch PD, May 14, 2012, at 3.</u>	compliance determinations.” (at 70)	
9. PHASE 2 / INTELLECTUAL PROPERTY ISSUES TURN expressed serious concerns about the staff proposal that intellectual property rights remain with the recipient of EPIC funds. TURN supported conditioning any EPIC RD&D awards on requirements that recipients reimburse ratepayers in the event that new technologies yield profitable commercial products. Specifically, TURN proposed that access to EPIC R&D funds should carry an obligation to provide royalties or profit sharing to those providing the funds. <u>TURN opening comments on staff proposal, March 7, 2012, at 3-4.</u> <u>TURN reply comments on staff proposal, March 16, 2012, at 1-2.</u> <u>TURN opening comments on Fitch PD, May 14, 2012, at 2.</u>	<u>D.12-05-037</u> The Decision does not adopt the staff proposal recommendations that “intellectual property rights be held by the entities that develop the intellectual property” and that “royalties not be required from technologies that are funded through EPIC that ultimately become commercialized.” (page 77) Based on concerns raised by TURN and other parties, the Decision eliminates this element of the staff proposal and instead concludes that “intellectual property rules are best designed when applied to particular areas of investment. Thus, we ask the administrators to propose, in each investment plan, the treatment of intellectual property rights either in the investment plan as a whole, or for particular areas of investment within the investment plan. The administrators should include a rationale for the intellectual property treatment they propose.” (at 78-79)	Yes

B. Duplication of Effort (§§ 1801.3(f) & 1802.5):

	Claimant	CPUC Verified
a. Was the Division of Ratepayer Advocates (DRA) a party to the proceeding?	Yes	Correct
b. Were there other parties to the proceeding with positions similar to yours?	Yes	Correct
c. If so, provide name of other parties: Consumer Federation of California, CEERT, California Farm Bureau Federation, CLECA, The Natural Resources Defense Council, The Union of Concerned Scientists, The Vote Solar Initiative, Sierra Club California, Californians for Clean Energy and Jobs, The Nature Conservancy, Marin Energy Authority, Pacific Forest Trust, National Asian American Coalition, Black Economic Council, and the Latino Business Chamber of Greater LA.		Correct

<p>d. Describe how you coordinated with DRA and other parties to avoid duplication or how your participation supplemented, complemented, or contributed to that of another party:</p> <p>TURN's showing in this case did not duplicate the contributions of DRA or other intervenors. Apart from generally supporting the creation of EPIC, expressing concerns about the treatment of intellectual property rights, and urging coordination of EPIC with IOU RD&D proposals, TURN and DRA addressed entirely separate issues in the case. Even where TURN and DRA agreed, there was minimal overlap and distinct showings made by both parties.</p> <p>TURN did meet with two other parties to the case – NRDC (on behalf of the Joint Environmental Parties) and the Center for Biological Diversity. These meetings were intended to promote coordination and minimize duplication.</p> <p>Most of the intervenors in this case took many positions adverse to TURN and offered unique perspectives. Therefore, TURN did not duplicate any efforts made by those parties and TURN's perspective was not identical to any other party in the case.</p> <p>Furthermore, TURN devoted a relatively small number of hours to this proceeding, thereby decreasing concerns about duplication of effort. TURN did not conduct its own discovery and performed the minimal amount of work needed to participate effectively and represent its own interests.</p>	<p>We do not reduce TURN's claim because of duplication with other parties.</p>
---	---

PART III: REASONABLENESS OF REQUESTED COMPENSATION

A. General Claim of Reasonableness (§§ 1801 & 1806):

a. Explanation of how the cost of Claimant's participation bears a reasonable relationship with benefits realized through participation	CPUC Verified
<p>As demonstrated in the substantial contribution section, TURN prevailed on a wide range of issues while devoting a very minimal number of hours to the entire proceeding. Some of these issues will lead to potentially significant ratepayer savings (e.g. mechanisms to protect EPIC funds from being diverted by the Legislature to other purposes). The remaining issues relate to spending EPIC funds wisely and ensuring that IOU ratepayers receive maximum value in exchange for the funds. For example, TURN supported provisions that would return royalties to ratepayers if EPIC funds are used to develop marketable intellectual property.</p> <p>TURN also highlighted the problem of dedicating IOU ratepayer funds to support activities in POU service territories. In response to concerns raised by TURN, the Commission adopted the "key guiding principle of producing IOU electricity ratepayer benefits" (D.12-05-037, at 70) for any investment. As a result, the disbursement of EPIC funds will be subject to</p>	<p>The Commission discussed and analyzed the arguments and recommendations made by TURN. The Commission adopted many of TURN's recommendations. Where the Commission did not accept all of TURN's recommendations, TURN still made significant</p>

<p>an IOU ratepayer benefit test.</p> <p>Given the amount of money to be spent under EPIC in the coming years, TURN's success in establishing certain key ratepayer protections more than justifies the level of participation. It is hard to imagine that TURN could have produced more significant benefits given the scope and timing of the proceeding. In light of the ratepayer protections achieved by TURN, the amount requested in compensation is fully reasonable and should be awarded.</p>	<p>contributions to the proceeding and the subject decision by raising important issues for the Commission's consideration, as reflected in the decision.</p>
<p>b. Reasonableness of Hours Claimed.</p> <p>Given the level of success achieved by TURN in this proceeding, the amount of time devoted by staff and consultants is fully reasonable. TURN did not retain any outside consultants to assist with this case and devoted the minimum number of hours needed to review the OIR and staff proposal and provide comments. TURN did not conduct discovery or perform significant amounts of independent research. TURN's pleadings were highly substantive given the amount of time devoted to the task.</p> <p>TURN's sole attorney was Matthew Freedman. Mr. Freedman was assisted by four other TURN attorneys at one juncture – when these individuals met to discuss legal issues raised by other parties in this case. It is fully reasonable for TURN attorneys to meet and discuss critical legal issues pending before the Commission. It would be unreasonable to assume that a single attorney could represent TURN without receiving any feedback from, or having any discussions with, other attorneys within the organization.</p> <p>Given the small number of overall hours, and the numerous substantial contributions resulting from TURN's intervention, the Commission should find that the number of hours claimed is fully reasonable.</p>	<p>We do not reduce TURN's claim on the grounds that the time expended was unreasonable.</p>
<p>c. Allocation of Hours by Issue</p> <p>TURN has allocated all of our attorney time by issue area or activity, as evident on our attached timesheets. The following codes relate to specific substantive issue and activity areas addressed by TURN. TURN also provides an approximate breakdown of the number of hours spent on each task and the percentage of total hours devoted to each category.</p>	<p>We do not reduce TURN's claim on the grounds that the time expended was unreasonable.</p>

GP – 7 hours – 14% of total

General Participation work essential to participation that typically spans multiple issues and/or would not vary with the number of issues that TURN addresses. This includes reading the OIR, Commission rulings, participating in prehearing conferences, attendance at workshops, and reviewing pleadings submitted by other parties.

Phase 1 – 14.75 hours – 29% of total

Includes work performed on phase 1 issues identified in the Scoping Ruling. These issues included the reasonableness of establishing EPIC and any funding protections for ratepayers.

Phase 2 – 30 hours – 58% of total

Includes review and responses to the staff proposal along with issues identified by TURN in Phase 1 that were deferred until Phase 2 by the Commission. These issues include biomass subsidies, intellectual property, money spent in POU territories, role of CEC as administrator and protections against diversion of funds, role of separate IOU RD&D programs, consolidation of ERP and SGIP programs, and administrative costs.

Comp – 11.00 hours

Time spent on the notice of intent to claim compensation and the preparation of this compensation request.

%

Time devoted to issues in Phase 1 that were deferred to Phase 2 by D.11-12-035. Hours with this symbol should be allocated 50% to Phase 1 and 50% to Phase 2.

B. Specific Claim:*

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hour s	Rate	Total \$
Matthew Freedman	2011	25.5	\$350	D.12-07-019	\$8,925.00	25.5	\$350	\$8,925.00
Matthew Freedman	2012	24.75	\$350	D.12-07-019	\$8,662.50	24.75	\$350	\$8,662.50

Robert Finkelstein	2011	0.25	\$470	D.11-09-037	\$117.50	0.25	\$470	\$117.50
Hayley Goodson	2011	0.25	\$295	D.11-06-015	\$73.75	0.25	\$300	\$75
Tom Long	2011	0.25	\$520	Comment #4	\$130.00	0.25	\$520	\$130.00
Marcel Hawiger	2011	0.25	\$350	D.11-09-037	\$87.50	0.25	\$350	\$87.50
	Subtotal:				\$17,996.25	Subtotal:		\$17,997.50
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
Matthew Freedman	2011	1	\$175	D.12-07-019 (@50%)	\$175	1	\$175	\$175
Matthew Freedman	2012	11	\$175	D.12-07-019 (@50%)	\$1,925	11	\$175	\$1,925
	Subtotal:				\$2,100	Subtotal:		\$2,100
COSTS								
#	Item	Detail			Amount	Amount		
1	Photocopies	Copies for filings and other proceeding documents			\$29.80			\$29.80
2	Postage	Mailing costs for pleadings			\$18.48			\$18.48
Subtotal:					\$48.28	Subtotal:		\$48.28
TOTAL REQUEST \$:					\$18,219.53 ²	TOTAL AWARD \$:		\$20,145.78
<p>* We remind all intervenors that Commission staff may audit their records related to the award and that intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Claimant's records should identify specific issues for which it seeks compensation, the actual time spent by each employee or consultant, the applicable hourly rates, fees paid to consultants and any other costs for which compensation was claimed. The records pertaining to an award of compensation shall be retained for at least three years from the date of the final decision making the award.</p>								
<p>**Travel and Reasonable Claim preparation time typically compensated at ½ of preparer's normal hourly rate.</p>								

² TURN has made a computational error in calculating their intervenor compensation request. Their total request adds up to \$20,244.53 not \$18,219.53.

Attorney	Date Admitted to CA BAR	Member Number
Marcel Hawiger	January 31, 1998	194244
Robert Finkelstein	June 13, 1990	146391
Hayley Goodson	December 5, 2003	228535
Thomas Long	December 11, 1986	124776
Matthew Freedman	March 29, 2011	214812

C. Attachments Documenting Specific Claim and Comments on Part III:

Attachment or Comment #	Description/Comment
1	<p>TURN is claiming a new hourly rate for its Legal Director, Thomas Long, pursuant to Res. ALJ-267, p. 5 (citing the procedures adopted in D.07-01-009 and D.08-04-010). As discussed in more detail below, in September 2011, Mr. Long rejoined TURN after leaving TURN for a position with the CPUC in early 2001. Accordingly, his last Commission-approved hourly rate -- \$300 for his work in 2000 -- is now more than ten years out of date. Based on Mr. Long's extensive experience and long record of accomplishments, TURN requests an hourly rate of \$520 for Mr. Long's work in 2011. TURN previously filed for this rate in A.09-10-013 (for contributions to D.11-12-037) and that request remains pending at this time.</p> <p>Mr. Long is well known to this Commission, as he has either practiced before, or been employed by, the CPUC for 24 years. He began his CPUC practice in 1987, when, as an attorney with the law firm of Morrison & Foerster, he represented TURN <i>pro bono</i> in the Diablo Canyon prudency review proceeding. He joined TURN in 1990 and immediately became its chief advocate in telecommunications proceedings, a role he served for 10 years. In recognition of his experience and high level of responsibility, TURN promoted him to the position of Senior Telecommunications Attorney in 1994. In January 2001, he left TURN to become the Legal and Telecommunications Advisor to then-Commission President Lynch. After the expiration of Commissioner Lynch's term at the end of 2004, he became a Deputy City Attorney for the City and County of San Francisco, where he resumed his role as an advocate before the CPUC, primarily on energy issues. He left the City in September 2011 to re-join TURN as its Legal Director and to fill the vacancy left by the departure of Mike Florio to become a CPUC Commissioner.</p> <p>Mr. Long has a distinguished educational and professional record. In 1980, Mr. Long graduated from Swarthmore College with High Honors in Political Science and Economics. In 1985, he graduated <i>cum laude</i> from New York University School of Law, where he was a member of the Law Review and elected to the Order of the Coif Honorary Society. After law school, he served a one-year clerkship with United States District Court Judge Rudi M. Brewster in the Southern</p>

District of California. From 1986 to 1989, he was a Litigation Associate in the San Francisco office of Morrison & Foerster. In 1998, he was awarded a prestigious Atlantic Fellowship in Public Policy, a competitive fellowship sponsored by the government of the United Kingdom and awarded to emerging leaders in American public policy. By virtue of the fellowship, Mr. Long became a Visiting Fellow at the University of Glasgow School of Law, where he researched the impact on consumers of the UK's efforts to introduce local competition for telecommunications services. His research findings have been published in the *Quarterly Bulletin* of the National Regulatory Research Institute, and he has published several other articles on telecommunications regulation in various books and journals.

Mr. Long has extensive experience as an advocate in both the telecommunications and energy arenas. In the 1990s, he represented TURN in scores of telecommunications proceedings, including the numerous landmark dockets that charted the industry's transition from monopoly to legally permitted competition for all aspects of service. His representations included: the local competition docket, three reviews of the new regulatory framework ("NRF"), the "OANAD" costing docket, several cases addressing universal service issues (including the creation of the High Cost B fund), retail and wholesale pricing proceedings (including the lengthy and complex "IRD" case), service quality-related cases, privacy-related proceedings, rulemakings related to consumer protection, complaints related to improper business practices, merger cases, and a multitude of other cases of importance to residential and small business customers. In 1993, in a formal complaint proceeding initiated by TURN, Mr. Long obtained a \$49 million judgment against Pacific Bell for fines and refunds of improperly levied late payment charges. In D.94-09-022, the Commission commended Mr. Long for his "exceptional work" and "outstanding presentation" in that case.

As a Deputy City Attorney, Mr. Long expanded his scope of expertise to include energy matters. Mr. Long represented the City and County of San Francisco in numerous CPUC energy and telecommunications proceedings from 2005 through 2011, including: the investigation of PG&E's 2003 Mission Substation fire and outage (in which he negotiated a favorable \$6 million settlement for the City); PG&E's Cornerstone application to improve service reliability; the revenue requirements and rate design phases of PG&E's 2011 general rate case; the telecommunications CEQA rulemaking; and, most extensively, the Community Choice Aggregation (CCA) rulemaking and San Francisco's related efforts to implement a CCA program. As the City's attorney on CCA matters, he negotiated over several months a successful service agreement with PG&E, in which he participated in multiple sessions mediated by CPUC General Counsel Frank Lindh.

In addition to expanding his scope of expertise, Mr. Long's four years of service as a Commissioner advisor and over six years as a Deputy City Attorney have significantly enhanced his already highly developed advocacy skills. As an advisor, he gained invaluable insights, from the decision-making perspective, into the most effective presentations and strategies for obtaining a favorable decision. Mr. Long's work for the City advising City departments seeking to offer new

	<p>energy CCA and telecommunications (City-wide wi-fi) services has fostered a deeper understanding of the challenges of providing utility services and thereby has made him a better advocate.</p> <p>All in all, Mr. Long is a highly seasoned and respected attorney with a depth and breadth of experience that is at least highly unusual, if not unique, among CPUC practitioners.</p> <p>Mr. Long's 24 years of experience place him at the high end of the highest tier of hourly rates. When the Commission approved an hourly rate of \$250 for Mr. Long's work in 1997 (D.98-11-051), the Commission recognized that his experience was already equivalent to that of a law firm partner. Now, 14 years later, he clearly has obtained experience equivalent to that of a senior partner in a law firm.</p> <p>TURN submits that the most comparable hourly rate to use in assigning Mr. Long an hourly rate for 2011 is that of Mr. Florio. In 2000, Mr. Long's approved hourly rate of \$300 was only \$10 to \$15 less than Mr. Florio's approved rates of \$310 for 1999-2000 and \$315 for 2000-2001. Retaining that same differential in relation to Mr. Florio's 2010 approved hourly rate of \$535 (first adopted in D.08-07-043 for work performed in 2008 and applied to 2010 work in D.10-05-012) yields a rate for Mr. Long of between \$520 and \$525.</p> <p>For all of these reasons, TURN believes that, if anything, its proposed hourly rate of \$520 underestimates the market rate for an attorney of Mr. Long's considerable skill and experience. TURN's proposed rate should therefore be approved.</p>
--	---

D. CPUC Disallowances, Adjustments, and Comments:

#	Reason
Adoption of Thomas Long's hourly rates for 2011.	TURN seeks to set Legal Director Thomas Long's 2011 hourly rate at \$520. TURN notes that D.98-11-051, where the Commission approved an hourly rate of \$250 for Mr. Long's work in 1997, cites Mr. Long as having experience equivalent to a law firm partner. Mr. Long has either practiced before, or been employed by the CPUC for 24 years. TURN states that Mr. Long's proposed hourly rate for 2011 is comparable to Mr. Florio's hourly rate for 2011. In 2000, Mr. Long's approved hourly rate was only \$10 to \$15 less than Mr. Florio's approved rate, and Mr. Florio's approved hourly rate for 2010 is \$535 (adopted in D.08-07-043). The \$520/hour rate for Mr. Long for 2011 is within the guidelines and principles established by the Commission.
Adoption of Hayley Goodson's 2011	We adopt the new hourly rate of Hayley Goodson for 2011 of \$300 pursuant to D.13-08-022.

PART IV: OPPOSITIONS AND COMMENTS

A. Opposition: Did any party oppose the Claim?	No.
B. Comment Period: Was the 30-day comment period waived (<i>see</i> Rule 14.6(c)(6))?	Yes.

FINDINGS OF FACT

1. The Utility Reform Network (TURN) has made a substantial contribution to Decisions (D.) 11-12-035 and D.12-05-037.
2. The requested hourly rates for TURNs representatives are comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services.
3. The claimed costs and expenses are reasonable and commensurate with the work performed.
4. The total of reasonable contribution is \$20,145.78.

CONCLUSION OF LAW

5. The Claim, with any adjustment set forth above, satisfies all requirements of Pub. Util. Code §§ 1801-1812.

ORDER

1. The Utility Reform Network is awarded \$20,145.78.
2. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company shall pay The Utility Reform Network their respective shares of the award, based on their California-jurisdictional electric revenues for the 2011 calendar year, reflecting the year in which the proceeding was primarily litigated. Payment of the award shall include compound interest at the rate earned on prime, three-month non-financial commercial paper, as reported in Federal Reserve Statistical Release H.15, beginning October 13, 2012, the 75th day after the filing of The Utility Reform Network's request for intervenor compensation, and continuing until full payment is made.

3. The comment period for today's decision is waived.
4. This decision is effective today.

Dated _____, at San Francisco, California.

APPENDIX**Compensation Decision Summary Information**

Compensation Decision:		Modifies Decision? No
Contribution Decision(s):	D1112035, D1205037	
Proceeding(s):	R1110003	
Author:	ALJs David Gamson, Julie Fitch	
Payer(s):	Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company	

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier	Reason Change/Disallowance
The Utility Reform Network (TURN)	7/30/2012	\$18,219.53 ³	\$20,145.78	No	N/A

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Matthew	Freedman	Attorney	TURN	\$350	2011	\$350
Matthew	Freedman	Attorney	TURN	\$350	2012	\$350
Robert	Finkelstein	Attorney	TURN	\$470	2011	\$470
Hayley	Goodson	Attorney	TURN	\$295	2011	\$300
Tom	Long	Legal Director	TURN	\$520	2011	\$520
Marcel	Hawiger	Attorney	TURN	\$350	2011	\$350

(END OF APPENDIX)

³ TURN has made a computational error in calculating their intervenor compensation request. Their total request adds up to \$20,244.53 not \$18,219.53.